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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/734,592 10/22/96 GOODEARL

A CNS-5250.27-

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HM12/1106

EXAMINER

GLUCKER, S

ART UNIT	PAPER NUMBER
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1647

DATE MAILED:

11/06/01

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Response to Amendment

1. The finality of the rejection of the last Office Action is withdrawn due to the new double patenting rejection applied in the instant Office Action.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 132, 136-138, and 141-143 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6,204,241. Although the conflicting claims are not identical, they are not patentably distinct from each other because amino acids 51 to 422 of SEQ ID NO:170 of claim 12 of the instant patent contain the amino acid or encoded amino acid sequences being administered for the same purpose of the instant Application, i.e. to induce acetylcholine receptor synthesis which is recited as the preamble in both the instant Application and the instant Patent. In addition, amino acids 51-422 of SEQ ID NO: 170 contain the "active portion" or the "EGF-like" domain of SEQ ID NO: 170, which is also known as GGF2. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the "active portion" of the polypeptide for therapeutic purposes while minimizing the size of the polypeptide for better tissue penetration and pharmacokinetics in general.
4. The IDS PTO-1449 filed 7/17/97 is missing a publication date (year) for all of the PCT Applications, US Patents, and some of the other documents listed. In order to be published as a

Art Unit: 1647

reference should the instant Application be found allowable, a publication date must be provided or the reference will not be listed on the front of the patent.

5. No claim is allowed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gucker whose telephone number is (703) 308-6571. The examiner can normally be reached on Monday to Friday from 0930 to 1800. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Kunz, can be reached on (703) 308-4623. The fax phone number for this Group is currently (703) 308-4242, but Applicant should confirm this by phoning the Examiner before faxing.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

SG

Stephen Gucker

October 29, 2001

Gary L. Kunz
GARY L. KUNZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600